

United States Court
Southern District of Texas
FILED

Michael N. Milby, Clerk

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the *Newby* and *Tittle* actions to file a consolidated complaint in each of those actions (the “Consolidated Complaints”) by April 1, 2002. At the same time, the Court established a briefing schedule requiring Defendants to file their motions to dismiss the Consolidated Complaints by May 1, 2002. In light of the vastly expanded breadth of the Consolidated Complaints, as evidenced by the sheer number of pages in each of the Complaints, Defendants respectfully request an additional fourteen (14) days within which to respond to the massive Consolidated Complaints.

The Consolidated Complaints in the *Newby* and *Tittle* actions were filed on April 8, 2002.² Together, the Consolidated Complaints are more than 800 pages in length (the *Newby* Complaint is 500 pages and the *Tittle* Complaint covers 301 pages). In contrast, the original complaint filed by the lead counsel in the *Newby* action, on behalf of Amalgamated Bank, was only 80 pages in length, and the original *Tittle* complaint covered only 19 pages. Thus, the parties and this Court are now confronted with complaints asserting almost ten times the amount of allegations than were before the Court when the Scheduling Order was entered.

In addition to naming numerous additional defendants for the first time, the scope of the allegations asserted against the individual defendants is tremendously expanded as well. While many of the factual allegations are the same ones asserted in the original complaints, many of them are completely new and asserted for the first time in the Consolidated Complaints. As an example of the magnitude of effort required to respond to the Consolidated Complaints, Defendants point out that the *Newby* Plaintiffs base their allegations, in part, on statements contained in over 300 different documents, and the *Tittle* Plaintiffs base their allegations, in part, on 43 different documents, all of which must be collected and analyzed both independently and in context. Put simply, Defendants

²On March 22, 2002, to facilitate the *Newby* and *Tittle* plaintiffs’ participation in a mediation with Defendant Arthur Andersen, the Court granted plaintiffs an additional week to file the Consolidated Complaints. At the same time, the Court also ordered that motions to dismiss are now due on May 8, 2002.

now have more than 800 pages of allegations to respond to in a very short amount of time.³

Defendants recognize and share the Court's desire to have these lawsuits proceed expeditiously and fairly. With those objectives in mind, Defendants request only an additional 14 days, until Wednesday May 22, 2002, to appropriately respond to the enormously broad Consolidated Complaints. With a number of new defendants named for the first time in the Consolidated Complaints--all of whom have to be formally served with process before their time to respond even begins to run--it is highly unlikely that all motions to dismiss will be filed on May 8. Granting Defendants a two week extension, therefore, will not delay the progress of this litigation, and will, instead, help it to progress on a more uniform and efficient schedule.⁴

For the foregoing reasons, Defendants respectfully request that the Court allow Defendants until May 22, 2002 to file their motions to dismiss the *Newby* and *Tittle* Consolidated Complaints.

³At the same time, various government investigations are impacting the ability of certain defendants to properly respond to the expansive allegations in the Consolidated Complaints. For example, the Outside Directors of Enron Corporation are scheduled to appear before the Senate Permanent Subcommittee on Investigations on May 7, 2002. In preparation for that hearing, the Outside Directors, along with their counsel, have spent the past two weeks participating in interviews with the Committee staff. Numerous other defendants are facing similar challenges in trying to digest and appropriately respond to the Consolidated Complaints.

⁴ Counsel for the Outside Director defendants contacted plaintiffs' counsel in the *Newby* and *Tittle* actions to propose that all of the parties--including the new defendants--work together to effectuate service and establish a uniform response date for all defendants. Plaintiffs counsel were opposed to that suggestion.

Respectfully submitted,

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By: Robin C. Gibbs by J.C. with power

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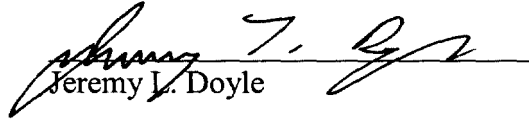
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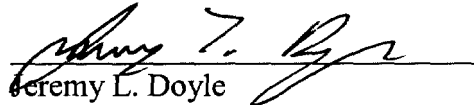
CERTIFICATE OF SERVICE

I certify that a true and correct copy of the forgoing was served on counsel on all counsel on this the 12th day of April, 2002, via e-mail, certified mail, return receipt requested, and/or facsimile.


Jeremy L. Doyle

CERTIFICATE OF CONFERENCE

Plaintiffs counsel in both the *Newby* and *Tittle* actions have indicated that they are opposed to this Motion. No defendants have expressed opposition to this Motion.


Jeremy L. Doyle